

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

804B0380

HOUSE BILL NO. 1273

Introduced by: Representative Konold and Senator Vitter

1 FOR AN ACT ENTITLED, An Act to regulate certain outfitters, guides, and commercial
2 hunting and fishing business enterprises.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Outfitter," any person who requires and accepts something of value as consideration
6 in exchange for providing facilities, land, equipment, lodging, vehicle, watercraft or
7 other conveyance, or personal service for any participant to hunt, trap, take, or kill
8 any game, including fish, or who accompanies that participant, either part or all of the
9 way, on an expedition for any of these purposes or supervises a guide in
10 accompanying that participant;

11 (2) "Guide," any person who is employed by or who has contracted independently with
12 any outfitter and who accompanies a participant during any hunting or fishing related
13 activity related to the activities of the outfitter;

14 (3) "Consideration," something of value given or done in exchange for something of value
15 given or done by another;

16 (4) "Participant," any person using the services of an outfitter; and

(5) "Commercial hunting or fishing business," any dealings between an outfitter or guide and a participant involving hunting or fishing activities in which something of value is required and accepted as consideration by any outfitter or guide for any activity involving the pursuit of or the taking, killing, capture, or trapping of any animal including fish.

Section 2. No person may act as an outfitter or guide or advertise or otherwise represent to the public or any individual that the person is an outfitter or guide without first securing a license in accordance with the provisions of this Act. No outfitter may willfully and substantially misrepresent facilities, prices, equipment services, or hunting or fishing opportunities.

Any violation of this section is a Class 1 misdemeanor.

Section 3. No person may engage in the practice of outfitting or guiding any commercial hunting or fishing activity unless that person has obtained a valid commercial outfitting or guiding license from the Department of Game, Fish and Parks. The Game, Fish and Parks Commission shall promulgate rules pursuant to chapter 1-26 establishing licensure requirements.

Section 4. An applicant for an outfitter's or guide's license or renewal of a license shall meet the following qualifications:

- (1) Be eighteen years of age or older, be physically capable and mentally competent to perform the duties of an outfitter, and be a resident of South Dakota;
- (2) Own or hold under written lease or represent a company, corporation, or partnership that owns or holds under written lease the equipment and facilities that are necessary to provide the services advertised, contracted for, or agreed upon between the outfitter's clients;
- (3) Have demonstrated a respect for and compliance with the laws of any state and the United States and all rules promulgated under those laws related to fish and game, conservation of natural resources, and preservation of the natural ecosystem without

1 pollution of the ecosystem; and

2 (4) Have not, at any time, engaged in fraud, deception, or material misrepresentation in
3 procuring any outfitter's, guide's, or hunting license from the State of South Dakota
4 or any other state.

5 Section 5. Each applicant for an outfitter's or guide's license shall make application for
6 licensure on a form prescribed and furnished by the Game, Fish and Parks Commission.
7 Application for an outfitter's or guide's license shall be in the name of an individual person only.
8 Applications involving corporations, proprietorships, or partnerships shall be made by one
9 individual person who qualifies under the provisions of this Act. The application for an outfitter's
10 or guide's license shall include:

- 11 (1) The applicant's full name, residence, address, general or sportsman's license number,
12 driver's license number, birth date, physical description, and telephone number;
- 13 (2) The address of the applicant's principal place of business;
- 14 (3) The amount and kind of property and equipment owned and used in the outfitting
15 business of the applicant;
- 16 (4) A signed statement for each guide to be employed or retained;
- 17 (5) A statement of the maximum number of participants to be accompanied at one time;
- 18 (6) The written approval of the landowner on whose lands the applicant will provide
19 services or hunting camps; and
- 20 (7) The boundaries of the proposed operation, stating, if applicable, the name of the
21 county of location, the legal owner of the property, the name of the ranch, the
22 proposed service and game sought, and any means of identifying boundaries.

23 Section 6. The cost of a commercial outfitter's or guide's license, as determined by the Game,
24 Fish and Parks Commission in rules promulgated pursuant to chapter 1-26, shall be sufficient to
25 reimburse the department for its costs and expenses incurred in the administration of the

1 provisions of this Act. However, the cost of the license may not be less than two hundred fifty
2 dollars.

3 Section 7. All equipment and facilities of any outfitter or guide are subject to inspection at
4 all reasonable times and places by the Department of Game, Fish and Parks.